

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
v.	)	No. 4:19 CR 997 SRC
	)	
DAMON LAVELL SMITH, SR.,	)	
	)	
Defendant.	)	

**GOVERNMENT’S RESPONSE TO DEFENDANT’S REQUEST FOR DOWNWARD  
VARIANCE**

Comes now the United States of America, by and through its Attorneys, Sayler Fleming, United States Attorney for the Eastern District of Missouri, and Jennifer Roy, Assistant United States Attorney for said District, and joins with Damon Lavell Smith, Sr. (hereinafter “defendant”) in his request for a downward variance as follows:

1. On January 4, 2021, and on February 1, 2021, the United States Probation Office (hereinafter “USPO”) filed the Disclosure Presentence Report and Final Presentence Investigation Report (hereinafter “Final PSR”) respectively. [Docs. #33, 40]. The Final PSR concluded that the defendant had a Guidelines total offense level of 21 and a criminal history category of IV. (PSR, paras. 31, 41). Based on a total offense level of 21 and a criminal history category of IV, the Guideline imprisonment range is 57 to 71 months. (*Id.* at para. 80). Neither party objects to the findings included in the Final PSR.
2. On January 29, 2021, the defendant filed a Request for Downward Variance asking the Court to sentence the defendant to a 48-month term of imprisonment. [Doc. # 39]. The defendant correctly noted that this request was to be considered by this Court as a joint request of both the defendant and the Government. In so doing, the Government acknowledges that, upon consideration of the circumstances of the offense, the history

and characteristics of this offender, and the need for general deterrence and protection of the community, a 48-month sentence, which represents a nine-month variance from the bottom of the Guideline range, is a sentence that, while significant, is not greater than necessary to achieve the sentencing considerations of 18 U.S.C. §3553(a).

WHEREFORE, the Government joins the defendant in his request for a downward variance below the U.S. Sentencing Guidelines range and recommends that this Court sentence the defendant to a 48-month term of imprisonment.

Respectfully submitted,

SAYLOR FLEMING  
United States Attorney

/s/ Jennifer J. Roy  
BY: JENNIFER ROY, #47203MO  
Assistant United States Attorney  
111 South 10th Street, Rm. 20.333  
St. Louis, Missouri 63102  
[jennifer.j.roy@usdoj.gov](mailto:jennifer.j.roy@usdoj.gov)  
314-539-2200

#### **CERTIFICATE OF SERVICE**

I hereby certify that on February 1, 2021, an electronic copy of the foregoing was filed electronically with the Clerk of the Court to be served by operation of the Court's electronic filing system upon all counsel of record.

/s/ Jennifer Roy  
Jennifer Roy  
Assistant United States Attorney